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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,629	08/19/2003	Somashekar Ramachandran Subrahmanyam	109869-134068	7529
26181	7590	05/25/2005		
FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER EDMONDSON, LYNNE RENEE	
			ART UNIT	PAPER NUMBER
			1725	
DATE MAILED: 05/25/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/644,629

Applicant(s)

SUBRAHMANYAM, SOMASHEKAR  
RAMACHANDRAN

Examiner

Lynne Edmondson

Art Unit

1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-5, 8-13, 15, 16, 19, 20 and 28-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-5, 8-13, 15, 16, 19, 20 and 28-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 2-5, 8-13, 15, 16, 19, 20 and 28-39 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 12, 15, 16, 20, 21, 26, 29 and 30 of copending Application No. 10/676275. Although the conflicting claims are not identical, they are not patentably distinct from each other because both teach methods, an apparatus and storage medium for selecting data representations of a weld bead (instant claims) or receiving a continuous path of a weld fillet ('275 claims) wherein attributes are named and a split, copy or merge function is performed. However the '275 claims are of a more narrow scope.

It would have been obvious to one of ordinary skill in the art at the time of the invention that the limitations of the '275 claims would be encompassed in the broader scope of the instant claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. Claims 2-5, 8-13, 15, 16, 19, 20 and 28-39 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8, 29-33, 36-39 and 46-48 of copending Application No. 10/651452. Although the conflicting claims are not identical, they are not patentably distinct from each other because both teach methods, an apparatus and storage medium for selecting data representations of a weld bead (instant claims) or collecting component data ('452 claims) wherein attributes are tracked and named and a split, copy or merge function is performed. However the '452 claims are of a more narrow scope.

It would have been obvious to one of ordinary skill in the art at the time of the invention that the limitations of the '452 claims would be encompassed in the broader scope of the instant claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 1725

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11-13, 16, 19, 20 and 28-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Okamura et al. (USPN 5040125).

Okamura teaches a computer program and method for modeling and generating welds and weld data from sets of the edges or ends of wire bodies and edges of parts to be joined (figs. 1-1e, 11-11e, 15-15b, 25-27, 30, 35 and 37a-38b, col 7 lines 46-62 and col 13 lines 12-22) wherein attributes are tracked. Data is stored and retrieved to generate final data representations (col 11 lines 53-55). First and final data sets are represented (col 8 line 18 – col 9 line 15). A shape manager is used (col 10 lines 31-63 and col 14 lines 38-60).

3. Claims 2-5, 8-13, 15, 16, 19, 20 and 28-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Bangs et al. (USPN 4877940).

Bangs teaches a computer program and method for modeling and generating welds and weld data from sets of wire bodies which are melted to form puddles of a particular shape having edges (col 1 lines 45-68) wherein attributes are tracked (col 9 line 51 – col 10 line 36) and named (col 29 line 55 – col 30 line 22) and col 31 lines 21-35). Data is stored and retrieved to generate final data representations. First and final data sets are represented. (col 9 lines 22-38, col 14 lines 28-57 and col 18 lines 14-68). A shape manager is used (col 7 lines 20-44 and col 8 lines 50-62). First and final data sets are represented.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-5, 8-10, 15 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okamura et al. (USPN 5040125) in view of Klimko et al. (US 2004/012250 A1).

Okamura teaches a computer program and method for modeling and generating welds and weld data from sets of the edges or ends of wire bodies and edges of parts to be joined (col 7 lines 46-62 and col 13 lines 12-22) wherein attributes are tracked. Data is stored and retrieved to generate final data representations (col 11 lines 53-55). First and final data sets are represented (col 8 line 18 – col 9 line 15). A shape manager is used (col 10 lines 31-63 and col 14 lines 38-60). However there is no distinct disclosure of propagation of attribute tracking during a split, copy or merge operation.

Klimko teaches a computer program and method for modeling and generating welds and weld data from sets of wire bodies (paragraph 63) wherein attributes are tracked (figures 3-7 and paragraphs 30-36). A shape manager (geometric parameter) is used (paragraphs 37, 41 and 42). First and final data sets are represented (paragraphs 38 and 52-56). A machine-readable article comprising method steps is also taught (paragraphs 53-59).

Art Unit: 1725

It would have been obvious to one of ordinary skill in the art at the time of the invention to perform propagation of attribute tracking during a split, copy or merge operation as is conventional in typical computer controlled applications to facilitate real time monitoring and changes.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 2-5, 8-13, 15, 16, 19, 20 and 28-39 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dodge et al. (USPN 6795778 B2) and Hillen et al. (USPN 6697701).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Edmondson whose telephone number is (571) 272-1172. The examiner can normally be reached on Monday through Thursday from 6:30 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1725

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lynne Edmondson  
Primary Examiner  
Art Unit 1725

LRE

LYNNE R. EDMONDSON  
PRIMARY EXAMINER

*LE*  
*5/19/05*